

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL A. BRUZZONE,

Plaintiff,

v.

JAMES MCMANIS, et al.,

Defendants.

Case No. 18-cv-01235-PJH

**ORDER DENYING MOTION TO
VACATE**

Re: Dkt. No. 85

Before the court is plaintiff's motion to vacate. The matter is fully briefed and suitable for decision without oral argument. Having read the parties' papers and carefully considered their arguments and the relevant legal authority, and good cause appearing, the court hereby rules as follows.

On October 31, 2018, this court entered judgment and terminated this case. Dkt. 59. On the same date, the court entered an order imposing pre-filing review. Dkt. 58. The court's final judgment in this case is thus over five (5) years old, affirmed by the Ninth Circuit, with writ of certiorari denied. See Bruzzone v. McManis, No. 18-cv-01235-PJH, 2018 WL 5734546, at (N.D. Cal. Oct. 31, 2018), aff'd, 785 F. App'x 503 (9th Cir. 2019), cert. denied, 141 S.Ct. 283.

In August 2022, plaintiff filed a motion for "reexamination" pursuant to Federal Rules of Civil Procedure 52 and 60(b)(2). Dkt. 71. The court denied the motion, finding that it was untimely, and that even if had been timely filed, it did not contain any new facts that would meet the requirements of Rules 52 or 60. See Dkt. 77 at 2. The court's order also specifically stated that "[t]he court will not entertain any motions for reconsideration

of this order.” Id.

Plaintiff has now filed a “motion to vacate” under Rule 60. Dkt. 85. As with plaintiff’s motion for “reexamination,” plaintiff’s motion is untimely, and even if it had been timely filed, it does not contain any new facts that meet the requirements of Rule 60. See Fed. R. Civ. P. 60(c)(1) (deadline to file a motion under this rule based on alleged mistakes, newly discovered evidence, fraud, or misconduct is one year from the date of judgment).

Therefore, the court DENIES plaintiff’s motion.

IT IS SO ORDERED.

Dated: December 15, 2023

/s/ Phyllis J. Hamilton

PHYLLIS J. HAMILTON
United States District Judge

United States District Court
Northern District of California